

Summary of H.B. 47, 2nd Sub Insurance Amendments (2/11/13)
Representative Jim Dunnigan – Chief Sponsor
Senate Sponsor – John L. Valentine

Technical change: Formatting, numbering, word order, or language changes; no change in intent or practice; Codifying existing practice: New or changed language, no change in practice; Policy Change: New language, new practice.	
Cite Change	Effect / Benefits
31A-1-301 - Definitions	
<p>(58) (a) "Escrow" means:</p> <p>[(i) a real estate settlement or real estate closing conducted by a third party pursuant to the requirements of a written agreement between the parties in a real estate transaction; or]</p> <p><u>(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:</u></p> <p><u>(A) the explanation, holding, or creation of a document; or</u></p> <p><u>(B) the receipt, deposit, and disbursement of money;</u></p> <p>(ii) a settlement or closing involving:</p> <p>(A) a mobile home;</p> <p>(B) a grazing right;</p> <p>(C) a water right; or</p> <p>(D) other personal property authorized by the commissioner.</p> <p>[(b) "Escrow" includes the act of conducting a:]</p> <p>[(i) real estate settlement; or]</p> <p>[(ii) real estate closing.]</p> <p><u>(b) "Escrow" does not include:</u></p> <p><u>(i) the following notarial acts performed by a notary within the state:</u></p> <p><u>(A) an acknowledgment;</u></p> <p><u>(B) a copy certification;</u></p> <p><u>(C) jurat; and</u></p> <p><u>(D) an oath or affirmation;</u></p> <p><u>(ii) the receipt or delivery of a document; or</u></p> <p><u>(iii) the receipt of money for delivery to the escrow agent.</u></p> <p>(59) "Escrow agent" means[-(a)] <u>an agency title insurance producer</u> [with:] <u>meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting</u></p>	<p>Lines: 422 to 452</p> <p>Policy change: Updates definitions of “escrow” and “escrow agent” to clarify the activities for which an escrow and/or title license is required.</p>

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<p><u>through an individual title insurance producer licensed with an escrow subline of authority.</u></p> <p>[(i) a title insurance line of authority; and] [(ii) an escrow subline of authority; or] [(b) a person defined as an escrow agent in Section 7-22-101.]</p> <p><u>(133) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.</u></p> <p>[(161)] <u>(162)</u> (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.</p> <p>(b) (i) "Permanent surplus" means the surplus of [a mutual] <u>an insurer or organization that is designated by the insurer or organization as permanent.</u></p> <p>(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and [31A-14-209] <u>31A-14-205</u> require that [mutuals] <u>insurers or organizations</u> doing business in this state maintain specified minimum levels of permanent surplus.</p>	<p>Lines: 964-966 Codifies existing practice. Adds a definition to the Insurance Code to reference the Patient Protection and Affordable Care Act (ACA).</p> <p>Lines: 1153-1158 Technical change: Replaces reference to inapplicable code cite and clarifies applicability of definition of “permanent surplus” to insurers and HMOs (organizations).</p>
31A-2-201.2	
<p>(1) Each year the commissioner shall:</p> <p>(a) conduct an evaluation of the state's health insurance market;</p> <p>(b) report the findings of the evaluation to the Health and Human Services Interim Committee before October 1 of each year; and</p> <p>(c) publish the findings of the evaluation on the department website.</p> <p>...</p> <p>(3) When preparing the evaluation required by this section, the commissioner shall include a report of:</p> <p>...</p> <p>[(d) the number of lives covered by health benefit plans that do not include state mandates as permitted by Subsection 31A-30-109(2)]. . .</p>	<p>Lines 1288-89 Policy change: Because 31A-30-109 is repealed (line 3782) the corresponding reporting component of the number of lives covered by a health benefit plan that does not include state mandates from the elements of the required annual Health Insurance Market Report is being removed. With the repeal of 31A-30-109 the reporting component is no longer relevant.</p>

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31A-2-217: Coordination with other states	
(1) (a) Subject to Subsection (1)(b), the commissioner, by rule, may adopt one or more agreements with [another] <u>a state</u> governmental regulatory agency, within and outside of this state, or with the National Association of Insurance Commissioners to address <u>state regulatory issues limited to:</u>	Lines: 1300-1303 Policy Change: Ensures the Insurance Commissioner can continue to enter into agreements with other states, but not the federal government – that would require legislative approval.
§ Various chapters	
[, agency, or producer], individual title insurance producer, or agency title insurance producer	Lines: various throughout bill Codifying existing practice: provides clarity, with regard to title agencies and producers only, when provisions apply to individuals, entities or both
31A-2-403. Title and Escrow Commission Created	
<p>(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows <u>beginning July 1, 2013:</u></p> <p style="padding-left: 20px;">[(i) four members shall each:]</p> <p style="padding-left: 20px;"><u>(i) two members shall be an employee of a title insurer;</u></p> <p style="padding-left: 20px;"><u>(ii) two members shall:</u></p> <p style="padding-left: 40px;"><u>(A) be an employee of a Utah agency title insurance producer;</u></p> <p style="padding-left: 40px;">[(A)] <u>(B)</u> be or have been licensed under the title insurance line of authority;</p> <p style="padding-left: 40px;">[(B)] <u>(C)</u> as of the day on which the member is appointed, be or have been licensed with the search or escrow subline of authority for at least five years; and</p> <p style="padding-left: 40px;">[(C)] <u>(D)</u> as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)[(i)]<u>(ii)</u>; and</p> <p style="padding-left: 20px;">[(ii)] <u>(iii)</u> one member shall be a member of the general public from any county in the state.</p> <p>(b) No more than one commission member may be appointed from a single company <u>or an affiliate or subsidiary of the company.</u></p> <p>(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.</p> <p style="padding-left: 20px;">(b) The disclosure statement required by this Subsection (2) shall be:</p> <p style="padding-left: 40px;">(i) filed by no later than the day on which the person begins that person's</p>	<p>Lines: 1359-1385</p> <p>Policy Changes: Changes the make-up of the Title and Escrow Commission to provide broader representation by requiring the five members include: 2 employees of a title insurer; 2 employed be employed by a Utah title agency producer and retains the one public member.</p>

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<p>appointment; and</p> <p>(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).</p> <p>(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is <u>in a publicly traded company or held as part of a mutual fund, trust, or similar investment.</u></p> <p>...</p> <p>(6) (a) The commission shall meet at least monthly. <u>Notwithstanding Section 52-4-207, a commission member shall physically attend a regularly scheduled monthly meeting of the commission and may not attend through electronic means. A commission member may attend subcommittee meetings, emergency meetings, or other not regularly scheduled meetings electronically in accordance with Section 52-4-207.</u></p>	<p>Lines: 1409-1413 require Title and Escrow members attend the required monthly meeting in person with an exception for electronic attendance of subcommittee, emergency or other not regularly scheduled meetings.</p>
<p>31A-2-404. Duties of the commissioner and Title and Escrow Commission.</p>	
<p>(1) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to:</p> <p>(a) title insurance; and</p> <p>(b) escrow conducted by a title licensee or title insurer.</p> <p>(2) The commission shall:</p> <p>(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection [(3)] (4), make rules for the administration of the provisions in this title related to title insurance including rules related to:</p> <p>(i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;</p> <p>(ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;</p> <p>(iii) continuing education requirements of Section 31A-23a-202; <u>and</u></p> <p>[(iv) examination procedures, after consultation with the commissioner and the commissioner's test administrator when required by Section 31A-23a-204; and]</p> <p>[(iv)] (iv) standards of conduct for a title licensee;</p> <p>...</p> <p>(3) <u>The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:</u></p> <p>(a) <u>after consultation with the commissioner and the commissioner's test</u></p>	<p>Lines: 1424-1491</p> <p>Policy and technical change – With the support of the Title and Escrow Commission, this change corrects a conflict with 31A-23a-204, which is addressed later in this bill, by modifying existing law to make rulemaking authority for the Title and Escrow Commission, related to establishing an examination of a licensee, permissive as opposed to mandatory.</p>

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<p><u>administrator;</u></p> <p><u>(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;</u></p> <p><u>and</u></p> <p><u>(c) subject to Subsection (4).</u></p> <p><u>...</u></p> <p><u>(6) The commission may not impose a penalty in a manner inconsistent with Subsection (2)(g) or make a rule that conflicts with Subsection (2)(g).</u></p>	<p>Lines:1428-29</p> <p>Further enforces the law that the Title and Escrow Commission must adhere to the requirements of the section when imposing a penalty.</p>
<p>31A-3-304. (Effective 07/01/13). Annual fees – Other taxes or fees prohibited – Captive Insurance Restricted Account.</p>	
<p>(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.</p> <p>(e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of [\$950,000] <u>\$1,250,000</u> shall be treated as free revenue in the General Fund.</p>	<p>Line:1533</p> <p>Policy change. Increases non-lapsing authority from \$950,000 to 1,250,000 in FY 2015 to maintain Captive Division resources commensurate with robust growth of captive insurers domiciled in Utah. The increase is critical to maintain Utah's competitive advantage of being a thorough, responsive and consistent regulator of captive insurers.</p>
<p>31A-4-117. Closing or settlement protection</p>	
<p><u>(1) A title insurer may issue closing or settlement protection in the form of a closing protection letter filed with the department to a person who is a party to a transaction in which a title insurance policy is issued.</u></p> <p><u>(2) Closing or settlement protection may indemnify a person who is a party to a transaction referred to in Subsection (1) against loss that the title insurer approves for the closing or settlement protection, under the terms and conditions of the closing protection letter issued by the title insurer, because of one or more of the following acts of a title insurance policy issuing individual title insurance producer or agency title insurance producer or other settlement service provider:</u></p> <p><u>(a) theft or misappropriation of settlement funds in connection with a transaction in which one or more title insurance policies are issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft or misappropriation relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or</u></p> <p><u>(b) failure to comply with the written closing instructions when agreed to by the</u></p>	<p>Lines: 1535-1562</p> <p>Policy change/Codifying existing practice (new section):Provides authority for title insurers to issue closing protection letters (CPLs), which are generally required by lenders in real estate transactions, to protect the lender from loss and allows title insurers to charge a fee for the CPL. Requires the CPL form and fee charged to be filed with the Insurance Department.</p> <p>Note: Issuance of CPLs has been standard practice in Utah, though fees for CPLs have not been charged in the past. This new section recognizes CPLs in law and gives authority to charge a fee.</p>

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<p><u>settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the written closing instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.</u></p> <p><u>(3) A title insurer may not make the fee charged by a title insurer for each party receiving closing or settlement protection coverage subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer. The fee charged for a closing or settlement coverage protection letter will be filed by the title insurer with the department 30 days before use.</u></p> <p><u>(4) A title insurer may not provide any other protection that purports to contractually indemnify against improper acts or omissions of a person who is a party to a transaction referred to in Subsection (1) with regard to settlement or closing services.</u></p>	
31A-14-211. Restrictions on foreign title insurers	
<p>(1) An authorized foreign title insurer may not insure property in this state [except]:</p> <p>(a) through [a] <u>an agency</u> title insurance producer who is a resident in Utah; or</p> <p>(b) [through] <u>if the authorized foreign title insurer has</u> a bona fide office in Utah:</p>	<p>Lines: 1573-1577</p> <p>Technical and Policy change. Drafting change, corrects double negative and allows a foreign title insurer to issue policies as long as it has a resident agency license.</p>
31A-17-603. Company action level event.	
<p>(1) "Company action level event" means any of the following events:</p> <p>(a) the filing of an RBC report by an insurer or health organization that indicates that:</p> <p>(i) the insurer's or health organization's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; [or]</p> <p>(ii) if a life or accident and health insurer, the insurer has:</p> <p>(A) total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and [2.5] <u>3.0</u>; and</p> <p>[(B) a negative trend, determined in accordance with the "trend test calculation" included in the RBC instructions;]</p> <p><u>(B) triggers the trend test determined in accordance with the trend test calculation included in the life or fraternal RBC instructions; or</u></p> <p>(iii) if a property and casualty insurer, the insurer has:</p> <p>(A) total adjusted capital that is greater than or equal to its company action level RBC, but less than the product of its authorized control level RBC and 3.0; and</p> <p><u>(B) triggers the trend test determined in accordance with the trend test calculation</u></p>	<p>Lines: 1589-1605</p> <p>Policy change. Updates and strengthens risk based capital solvency trend calculation standard consistent with required accreditation standards for life insurers, fraternal organizations and property and casualty insurers. The Insurance Department indicates that there are currently NO Utah insurance companies that will be impacted by this change.</p>

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included in the property and casualty RBC instructions; (b) the notification by the commissioner to the insurer or health organization of an adjusted RBC report that indicates an event in Subsection (1)(a), provided the insurer or health organization does not challenge the adjusted RBC report under Section 31A-17-607; or:	
31A-19a-209, 31A-20-110	
[, agencies, and producers], individual title insurance producers, and agency title insurance producers <i>Note: Because this is not a policy change, the above is one example, consistent throughout the Section</i>	Lines: 1686-1687 Codifying existing practice: provides clarity, with regard to title agencies and producers only, when provisions apply to individuals, entities or both
31A-21-314. Prohibited provisions	
[No] <u>An insurance policy subject to this chapter may <u>not</u> contain any provision:</u> . . . <u>(4) purporting to give to an insurer, plan administrator, or claim administrator full and final discretion in interpreting benefits in an insurance policy.</u>	Lines: 1759-1768 Policy change: Prohibits health insurers from having sole discretion to determine policy terms.
31A-21-503. Discrimination based on domestic violence or child abuse prohibited	
(1) Except as provided in Subsection (2), an insurer of life or accident and health insurance may not consider whether an insured or applicant is the subject of domestic abuse as a factor to: . . . (h) terminate coverage or fail to provide conversion privileges in violation of [Sections] <u>Section 31A-22-612 [and 31A-22-723]</u> under a group accident and health policy for the insured because the coverage was issued in the name of the perpetrator of the domestic violence or abuse.	Lines: 1771-1784 Policy change: Eliminates requirement that group policies allow for conversion to an individual policy. ACA has individual guarantee provisions and law will be unnecessary.
31A-22-429. Producer's duties related to replacement of life insurance or annuity	
<u>(1) In connection with or as part of each application for life insurance or annuities, the applicant shall complete and the producer shall submit to the insurer the statements required by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act as to:</u> <u>(a) whether the applicant has existing policies or contracts; and</u> <u>(b) whether the proposed life insurance or annuity will replace, discontinue, or change an existing policy or contract.</u> <u>(2) If an applicant for life insurance or an annuity answers "yes" to the question</u>	Lines: 1801-1839 Codifying existing practice: This is merely the codification of existing rule R590-93. There is no substantive change in the meaning or requirements imposed on a producer in the context of the replacement of a life insurance or annuity contract.

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regarding replacement, discontinuance, or change of an existing policy or contract referred to in Subsection (1), the producer shall present to, and leave with, the applicant, not later than at the time of taking the application, the notice regarding replacements in the form adopted by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or other substantially similar document filed with the commissioner. However, a filing is not required when an amendment to the notice is limited to the omission of a reference not applicable to the product being sold or replaced. With respect to an electronically completed application and notice, the producer is not required to leave a copy of the electronically completed notice with the applicant.

(3) (a) The notice described in Subsection (2) shall:

(i) list each existing policy or contract contemplated to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and

(ii) include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract.

(b) If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(4) In connection with a replacement transaction the producer shall leave with the applicant by no later than at the time of policy or contract delivery the original or a copy of all printed sales material. With respect to electronically presented sales material, it shall be provided to the policy or contract holder in printed form no later than at the time of policy or contract delivery.

(5) Except as provided in rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in connection with a replacement transaction, the producer shall submit to the insurer to which an application for a policy or contract is presented:

(a) a copy of each document required by this section;

(b) a statement identifying any preprinted or electronically presented company approved sales materials used; and

(c) copies of any individualized sales materials, including any illustrations related to the specific policy or contract purchased.

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31A-22-519. Death pending conversion.	
If a person insured under a group life insurance policy, or the insured dependent of that person, dies during the period of eligibility for conversion under Section 31A-22-517 or 31A-22-518 and before the individual policy becomes effective, the amount of life insurance to which he <u>the insured</u> would have been entitled <u>to have issued under the individual policy</u> is payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium has been made.	Lines: 1841-1847 Technical change. The language clarifies that the amount payable if death occurs during the conversion period for group life insurance will be the amount the certificate holder is eligible for under an individual policy, which may result in a decrease in the amount of the death benefit payable during the conversion period. The proposed change returns language omitted in the 1986 recodification, is consistent with national standards, and the prevailing practice in the group life insurance industry.
31A-22-612. Conversion privileges for insured former spouse	
<p>(1) An accident and health insurance policy, which in addition to covering the insured also provides coverage to the spouse of the insured, may not contain a provision for termination of coverage of a spouse covered under the policy, except by entry of a valid decree of divorce or annulment between the parties.</p> <p>...</p> <p>(4) This section does not apply to accident and health insurance policies[-(a)] offered on a group blanket basis[-or]. [(b) that comply with Section 31A-22-723.]</p>	Lines: 1849-1872 Policy change: Eliminates requirement that group policies allow for conversion to an individual policy. The ACA has individual guarantee provisions and law will be unnecessary.
31A-22-617. Preferred provider contract provisions.	
<p>Health insurance policies may provide for insureds to receive services or reimbursement under the policies in accordance with preferred health care provider contracts as follows:</p> <p>...</p> <p>(2) (a) Subject to Subsections (2)(b) through (2)(f)<u>(e)</u>, an insurer using preferred health care provider contracts [shall pay for the services of health care providers not under the contract, unless the illnesses or injuries treated by the health care provider are not within the scope of the insurance contract. As used in this section, "class of health care providers" means all health care providers licensed or licensed and certified by the state within the same professional, trade, occupational, or facility licensure or licensure and certification category established pursuant to Titles 26, Utah Health Code and 58, Occupations and Professions] <u>is subject to the reimbursement requirements in Section 31A-8-501 on or after January 1, 2014.</u> [(b) (i) Until July 1, 2012, when the insured receives services from a health care provider not under contract, the insurer shall reimburse the insured for at least 75% of the</p>	Lines: 1874- 2021 Technical change. On July 1, 2012, a 2011 legislative change (HB128S2 Health Reform Amendments) became effective. This change removes a previous requirement for insurer's (excluding HMO's) to pay for non-contracted providers at a level no less than 75% of the average payment to insurers. Due to this change, the provisions in 31A-22-618.5, which allow insurers to offer plans with limited mandates, became very confusing. This change more clearly describes the available plan offerings.

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<p>average amount paid by the insurer for comparable services of preferred health care providers who are members of the same class of health care providers.]</p> <p>[(ii) Notwithstanding Subsection (2)(b)(i), an insurer may offer a health plan that complies with the provisions of Subsection 31A-22-618.5(3).]</p> <p>[(iii) The commissioner may adopt a rule dealing with the determination of what constitutes 75% of the average amount paid by the insurer under Subsection (2)(b)(i) for comparable services of preferred health care providers who are members of the same class of health care providers.]</p> <p>[(e)] (b) When reimbursing for services of health care providers not under contract, the insurer may make direct payment to the insured.</p> <p>[(d) Notwithstanding Subsection (2)(b), an]</p> <p>...</p> <p>(9) [Insurers] Except as provided in Subsection 31A-22-618.5(3)(a), insurers are subject to [the provisions of] Sections 31A-22-613.5, 31A-22-614.5, and 31A-22-618.</p> <p>(10) Nothing in this section is to be construed as to require an insurer to offer a certain benefit or service as part of a health benefit plan.</p> <p>(11) This section does not apply to catastrophic mental health coverage provided in accordance with Section 31A-22-625.</p>	
<p>31A-22-618.5. Health benefit plan offerings.</p>	
<p>...</p> <p>(3) An insurer that offers a health benefit plan that is not subject to Chapter 8, Health Maintenance Organizations and Limited Health Plans:</p> <p>[(a) notwithstanding Subsection 31A-22-617(2), may offer a health benefit plan that groups providers into the following reimbursement levels:]</p> <p>[(i) tier one contracted providers;]</p> <p>[(ii) tier two contracted providers who the insurer shall reimburse at least 75% of tier one providers; and]</p> <p>[(iii) one or more tiers of non-contracted providers;]</p> <p>[(b)] (a) notwithstanding Subsection 31A-22-617(9), may offer a health benefit plan that is not subject to Section 31A-22-618;</p> <p>[(c) beginning July 1, 2012, may offer health benefit plans that:]</p> <p>[(i) are not subject to Subsection 31A-22-617(2); and]</p> <p>[(ii) are subject to the reimbursement requirements in Section 31A-8-501;]</p>	<p>Lines: 2054-2081</p> <p>Technical change. The language is no longer applicable due to a 2011 legislative change (HB128S2 Health Reform Amendments) which removed a previous requirement for insurer's (excluding HMO's) to pay for non-contracted providers at a level no less than 75% of the average payment to insurers.</p>

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<p>[(d)] (b) when offering a health plan under this Subsection (3), shall provide coverage of emergency care services as required by Section 31A-22-627 [by providing coverage at a reimbursement level of at least 75% of the health benefit plan's highest contracted provider category]; and</p> <p>[(e) are] (c) is not subject to coverage mandates enacted after January 1, 2009 that are not required by federal law, provided that an insurer offers one plan that covers a mandate enacted after January 1, 2009.</p> <p>(4) Section 31A-8-106 does not prohibit the offer of a health benefit plan under Subsection (2)(b).</p> <p>(5) (a) Any difference in price between a health benefit plan offered under Subsections (2)(a) and (b) shall be based on actuarially sound data.</p> <p>(b) Any difference in price between a health benefit plan offered under [Subsections] <u>Subsection</u> (3)(a) [and (b)] shall be based on actuarially sound data.</p>	
31A-22-722. Utah mini-COBRA benefits for employer groups	
<p>(2) (a) Notwithstanding Subsection (1), an employee may not extend coverage under the current employer's group insurance policy if the employee:</p> <p>...</p> <p>[(xii) elects alternative coverage under Section 31A-22-724.]</p>	<p>Lines: 2116 and 2169-2183</p> <p>Technical change: Under Utah mini-COBRA law deletes reference and requirements for notice to eligible individuals of ability to enroll in NetCare option. NetCare will no longer be offered – the reference need to be deleted.</p>
31A-23a-102. Definitions	
<p>As used in this chapter:</p> <p>[(2) "Escrow" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to conduct escrow as defined in Section 31A-1-301.]</p>	<p>Lines: 2188-2190</p> <p>Policy change: deletes prior definition of “escrow”, which is replaced by new definition in this bill, lines 416-426</p>
31A-23a-118. Car rental related licensing requirements.	
<p><u>(1) Subject to Section 31A-23a-103, a person is required to hold a limited line producer license with a car rental related insurance limited line of authority to sell or offer car rental related insurance coverage under a car rental related insurance policy.</u></p> <p><u>(2) A car rental related insurance limited line license issued pursuant to 31A-23a-103 and 31A-23a-106 authorizes an employee or authorized representative of the licensee to sell or offer coverage under a car rental related insurance policy to a customer at each location at which the licensee engages in car rental related insurance transactions.</u></p> <p><u>(3) An agency holding a car rental related insurance limited line license shall:</u></p>	<p>Lines: 2518-2536</p> <p>Codifying existing practice: Clarifies that a car rental agency that holds a limited lines car rental related insurance licensee may designate non-licensed individuals to sell rental car insurance provided the non-licensed individuals are trained and supervised and there is a licensed, designated responsible individual at each location.</p>

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<p><u>(a) be appointed by an insurer underwriting a car rental related insurance policy that the agency sells or offers; and</u></p> <p><u>(b) have a designated responsible licensed individual at each location at which the agency is soliciting, selling, or offering car rental related insurance.</u></p> <p><u>(4) An agency holding a car rental related insurance limited line license may employ a nonlicensed individual employed as a counter sales representative in soliciting, selling, or offering car rental related insurance. The nonlicensed individual shall be:</u></p> <p><u>(a) trained and supervised in the sale of car rental related insurance products; and</u></p> <p><u>(b) responsible to a licensed individual designated by the agency at each location where a car rental related insurance product is sold.</u></p>	
31A-23a-204. Special requirements for title insurance producers and agencies.	
<p>[A] An individual title insurance producer or agency title insurance producer[, including an agency,] shall be licensed in accordance with this chapter, with the additional requirements listed in this section.</p> <p>...</p> <p><u>(e) An individual that satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.</u></p> <p>...</p> <p>(6) The Title and Escrow Commission [shall] <u>may</u> adopt rules, subject to Section 31A-2-404, after consulting with the [department] <u>commissioner</u> and the [department's] <u>commissioner's</u> test administrator, establishing an examination for a license that will satisfy this section.</p>	<p>Lines: 2694-2696- Policy change. This change requires that each title agency have an individual “qualifying licensee” that has experience and is responsible for the agency’s activities and that “qualifying licensee” individual may not serve more than two agencies.</p> <p>Lines: 2722-2725 Policy and technical change This is the second part of what was mentioned earlier regarding 31A-2-404 (lines 1437-1438 and 1465-1469) and correction of a conflict by modifying existing law from requiring the Title and Escrow Commission to promulgate rules for the specific purpose of establishing an examination of a licensee, from mandatory to permissive. The Title and Escrow Commission supports this change.</p>

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31A-23a-402.5. Inducements.	
<p>(1) (a) Except as provided in Subsection (2), a <u>producer, consultant, or other</u> licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:</p> <p>...</p> <p>(4) Items not prohibited by Subsection (1) include a <u>producer, consultant, or other</u> licensee, or an officer or employee of a licensee, either directly or through a third party:</p> <p style="padding-left: 40px;">(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on <u>a quote or</u> the purchase of a particular insurance product;</p> <p>...</p> <p>(v) facilitating risk management services directly related to [the] <u>property and casualty</u> insurance [product] <u>products</u> sold or offered for sale by the licensee, including:</p> <p style="padding-left: 40px;">(i) risk management;</p> <p style="padding-left: 40px;">(ii) claims and loss control services; [and]</p> <p style="padding-left: 40px;">(iii) risk assessment consulting;, <u>including analysis of:</u></p> <p style="padding-left: 80px;"><u>(A) employer's job descriptions; or</u></p> <p style="padding-left: 80px;"><u>(B) employer's safety procedures or manuals; and</u></p> <p style="padding-left: 40px;"><u>(iv) providing information and training on best practices;</u></p> <p>...</p>	<p>Lines: 2866-3038</p> <p>There are three types of changes to section 402.5 of Chapter 23a.</p> <p>A. Codifying existing practice: clarifies by adding the words "producer, consultant, or other" in several places in the section that this section, related to inducements, specifically applies to producers and consultants as well as other licensees.</p> <p>B. Lines 2756-57 Policy change: this change adds getting an insurance <i>quote</i> to the prohibition of conditioning the giving of a de minimis gift or meal to a person that purchases an insurance product; <i>prohibition of conditioning a gift on buying a policy remains.</i></p> <p>C. Policy change. These next two proposed changes are related to concerns with the anti-inducement law related to property and casualty lines of insurance.</p> <p>Lines: 2971-2978</p> <p>1) 31A-23a-402.5(4)(v) – clarifies that risk management relates to property and casualty insurance lines only and clarifies what may be provided in risk assessment consulting.</p>

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<p>(5) An inducement prohibited under Subsection (1) includes a <u>producer, consultant, or other licensee, or an officer or employee of a licensee:</u></p> <p>...</p> <p>(b) engaging in one or more of the following unless a fee is paid in accordance with Subsection [(7)] (8):</p> <p>...</p> <p style="padding-left: 40px;">(v) providing job descriptions, postings, and applications for a person [that purchases an employment practices liability insurance product from the licensee];</p> <p style="padding-left: 40px;">(vi) providing payroll services;</p> <p>...</p> <p><u>(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).</u></p> <p>...</p> <p>[(6)] (7) (a) A de minimis gift or meal not to exceed \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on [the] <u>a quote or</u> purchase of a particular insurance product for purposes of Subsection (4)(a).</p> <p style="padding-left: 40px;"><u>(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product if the de minimis gift or meal is provided by the insurer and not by a producer or consultant.</u></p>	<p>Lines: 3001-02</p> <p>2) 31A-23a-402.5(5)(b)(v) – clarifies that a licensee is not allowed to provide job descriptions to either current <i>or</i> perspective clients.</p> <p>Lines: 3026-3028</p> <p>3) 31A-23a-402.5(6) – This change requires that services provided for which the fair market value must be paid be itemized and billed individually instead of in a lump sum.</p> <p>Lines: 3032-3034</p> <p>4) 31A-23a-402.5(7)– Here, the change allows the giving of a de minimis gift or meal to a person that gets a <i>quote</i>, not to exceed \$10, IF the gift or meal is paid for by the insurer and not by the producer or consultant.</p>
<p>31A-23a-406. Title insurance producer’s business</p> <p>(8) If [a] <u>an individual title insurance producer or agency title insurance producer</u> conducts a search for real estate located in the state, the <u>individual title insurance producer or agency title insurance producer</u> shall conduct a [minimum mandatory search, as defined by rule made by the Title and Escrow Commission, subject to Section 31A-2-404] <u>reasonable search of the public records.</u></p>	<p>Again this section is replete with language, which provides clarity, with regard to title agencies and producers only, when provisions apply to individuals, entities or both</p> <p>Lines: 3135-3139</p> <p>Policy change: This change removes the requirement that the Title and Escrow Commission define a “minimum mandatory search” of when an individual title insurance producer or agency conduct a search of real estate in Utah. The change requires a</p>

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	<p>“reasonable” search be conducted, which will be based on title insurer guidelines and appetite for risk. The change would still allow the Commission to develop such a rule, but makes “minimum mandatory search” rulemaking permissive not mandatory. Previous attempts by the Commission make such a rule were unsuccessful as the stakeholders could not come to agreement.</p>
31A-23a-406.5. Conduct of Escrow	
<p><u>(1) Only an escrow agent or a title insurer in compliance with Subsection 31A-4-107(1)(a) and Section 31A-14-211 shall conduct escrow.</u></p> <p><u>(2) Subsection (1) does not apply to:</u></p> <p><u>(a) a person defined as an escrow agent in Section 7-22-101; or</u></p> <p><u>(b) a person licensed to practice law in Utah, if that person meets the requirements of Section 31A-23a-204.</u></p>	<p>Lines: 3141-3147</p> <p>Clarifies existing practice: Here, the language makes clear that only a licensed escrow agent or title insurer conduct escrow and provides reasonable exceptions for escrow licensees under the authority of the Department of Financial Institutions and attorneys.</p> <p><i>Note: The title industry and Department want to ensure only qualified persons conduct escrow, not “mobile notaries”, this will assist the Department in enforcement efforts.</i></p>
31A-23a-504. Sharing commissions	
<p><u>(5) This section does not apply to a bail bond producer or bail enforcement agent as defined in Section 31A-35-102[-] and as described in Subsection 31A-23a-106(2)(c); or</u></p> <p><u>(b) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):</u></p> <p><u>(i) car rental related insurance;</u></p> <p><u>(ii) self-service storage insurance; or</u></p> <p><u>(iii) portable electronics insurance.</u></p>	<p>Lines: 3382-3389</p> <p>Codifying existing practice: allows non-licensed representatives of producers that hold a limited lines license with authority of either car rental, self-service storage or portable electronics insurance to be paid compensation.</p>
31A-29-106. Powers of board (HIP)	
<p><u>(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies licensed to transact health care insurance business. In addition, the board shall have the specific authority to:</u></p>	<p>Lines: 3470-72</p> <p>Policy change: Directs the HIP Utah Board to transition HIP enrollees other health insurance</p>

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... (p) transition health care coverage for all individuals covered under the pool as part of the conversion to health insurance coverage, regardless of preexisting conditions, under PPACA.	coverage pursuant to the ACA.
31A-29-113. Benefits – Additional types of pool insurance-preexisting conditions-waiver-Maximum benefits	
(10) Covered benefits available from the pool may not exceed a [\$1,500,000] <u>\$1,800,000</u> lifetime maximum, which includes a per enrollee calendar year maximum established by the board.	Lines: 3535-36 Policy change. Raises the lifetime maximum benefit for individuals in HIPUtah from \$1.5 million to \$1.8 million. This change mirrors action taken by the HIPUtah Board.
31A-30-115. Actuarial review of health benefit plans.	
(1) (a) The department shall conduct an actuarial review of rates submitted by small employer carriers: (i) prior to the publication of the premium rates on the Health Insurance Exchange; (ii) except as permitted by Subsection 31A-30-207(2), to determine if the carrier is using the same rating and underwriting practices in both the defined contribution arrangement market in the Health Insurance Exchange and the defined benefit market offered outside the Health Insurance Exchange[, in compliance with Subsection 31A-30-202.5(1)(b)];	Line: 3546 Technical change: deletes reference to 31A-30-202.5 (insurer participation in defined contribution arrangement market), which is repealed in this bill.
31A-30-208. Enrollment for defined contribution arrangements.	
(2) (a) [Except as provided in Subsection 31A-30-202.5(2), in] <u>In</u> accordance with Subsection (2)(b), on January 1 of each year, an insurer may enter or exit the defined contribution arrangement market. (b) An insurer may offer new or modify existing products in the defined contribution arrangement market: (i) on January 1 of each year; (ii) when required by changes in other law; and (iii) at other times as established by the risk adjuster board created in Section 31A-42-201. (c) (i) An insurer shall give the department, the Health Insurance Exchange, and the risk adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or (b). (ii) When an insurer elects to participate in the defined contribution arrangement market, the insurer shall participate in the defined contribution arrangement market for no less than two years.	Line: 3584 Technical change: deletes reference to 31A-30-202.5 (insurer participation in defined contribution arrangement market), which is repealed in this bill.

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31A-31-108. Assessment of insurers.	
<p>(4) (a) There is created in the General Fund a restricted account known as the "Insurance Fraud Investigation Restricted Account."</p> <p>(b) The Insurance Fraud Investigation Restricted Account shall consist of the money received by the commissioner under this section and [Section 31A-31-109.] Subsections 31A-31-109(1)(a)(ii), (1)(b), (2)(b)(i), (2)(c), and (3)(a). <u>Money ordered paid under Subsections 31A-31-109(1)(a)(i) and (2)(a) shall be deposited in the Insurance Fraud Victim Restitution Fund pursuant to Section 31A-31-108.5.</u></p>	<p>Lines: 3643-3647</p> <p>Policy change. These last two changes relate to the Insurance Fraud Division's ability to forward restitution funds ordered by the court to insurance fraud victims. The change creates the Insurance Fraud Victim Restitution Fund. With the change, the full amount of restitution received by the Fraud Division as ordered by a court in a criminal insurance fraud case, will be deposited in the Fund. The full amount of those restitution funds will then be paid to the victims as ordered by the judge. Approval of this change does NOT affect any aspects of the Fraud Division's operational expenses or General Fund revenue <i>in any way</i>, the Fund will function solely as the account through which restitution monies 'pass through' from the defendants to the victims.</p>
31A-31-108.5. Insurance Fraud Victim Restitution Fund.	
<p><u>(1) There is created a restricted special revenue fund known as the "Insurance Fraud Victim Restitution Fund."</u></p> <p><u>(2) The Insurance Fraud Victim Restitution Fund shall consist of money ordered paid under Subsections 31A-31-109(1)(a)(i) and (2)(a).</u></p> <p><u>(3) The commissioner shall administer the Insurance Fraud Victim Restitution Fund for the sole benefit of insurance fraud victims.</u></p>	<p>Lines: 3654-3660</p> <p>Policy change: same as above</p>
31A-41-102, 31A-41-201, 31A-41-202	
Various	<p>Lines: 3401-3457</p> <p>Codifying existing practice: provides clarity, with regard to title agencies and producers only, when provisions apply to individuals, entities or both</p>
49-20-410. High deductible health plan – Health savings account—Contributions.	
<p>[(4) The program shall offer a state employee and the employee's eligible dependents the option to continue coverage under the employee's high deductible health plan in place of a conversion policy under Section 31A-22-723 if:]</p> <p>[(a) the employee was covered by the state employee's high deductible health plan for</p>	<p>Lines: 3758-3766</p> <p>Technical change: Deletion of requirement that state employees be offered a conversion plan under 31A-22-723, which is being repealed in this bill. The ACA has individual guarantee provisions and law will be</p>

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<p>at least the four years before the date of termination of employment;]</p> <p>[(b) the employee or the employee's eligible dependents have exhausted federal COBRA coverage with the same or similar state employee's high deductible health plan; and]</p> <p>[(c) the employee pays the premium group rate determined by the office for the coverage.]</p>	<p>unnecessary.</p>
<p>Section 49-- - Repealer -- , , and</p>	
<p>31A-22-723</p> <p>31A-22-724</p> <p>31A-30-109</p> <p>31A-30-202.5</p>	<p>Line 105: Repeals 31A-22-723, Conversion from group coverage. With individual coverage moving to guaranteed issuance due to provisions of the ACA being implemented January 1, 2014, the provisions of conversion coverage are no longer necessary.</p> <p>Line 106 Offer of alternative coverage -- Utah NetCare Plan. Utah NetCare was developed as a low cost alternative to an employer based COBRA and mini-COBRA coverage. Due to provisions of the ACA, an insurer may no longer offer the limited benefits provided by the Utah NetCare plan.</p> <p>Line 107: Repeals 31A-30-109, Health benefit plan choices. Beginning January 1, 2014, the ACA defines the plans that an insurer will be required to offer in the individual and small employer market. In addition, the section references the NetCare plan which is being repealed.</p> <p>Line 108: Repeals 31A-30-202.5, Insurer participation in the defined contribution arrangement market. Beginning January 1, 2014, the ACA defines the plans that an insurer will be required to offer in an exchange marketplace.</p>

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<p>31A-30-205</p>	<p>Line 110: Repeals 31A-30-205, Health benefit plans offered in the defined contribution market. The defined contribution market currently is marketing over 150 types of health benefit plans. The regulation of plans that must be offered is no longer necessary. Additionally, beginning January 1, 2014, the ACA defines the plans that an insurer will be required to offer in an exchange marketplace.</p>
<p>Effective Dates</p>	
<p><u>(1) If approved by two-thirds of all the members elected to each house, Section 31A-4-117 (this is the closing protection letter section) takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.</u></p> <p><u>(2) Except as provided in Subsections (1), (3) and (4), this bill takes effect on May 14, 2013.</u></p> <p><u>(3) The actions affecting the following take effect on January 1, 2014:</u></p> <p><u>(a) Section 31A-2-201.2;</u></p> <p><u>(b) Section 31A-21-503;</u></p> <p><u>(c) Section 31A-22-612;</u></p> <p><u>(d) Section 31A-22-722;</u></p> <p><u>(e) Section 31A-22-723;</u></p> <p><u>(f) Section 31A-30-109;</u></p> <p><u>(g) Section 31A-30-115;</u></p> <p><u>(h) Section 31A-30-202.5;</u></p> <p><u>(i) Section 31A-30-205;</u></p> <p><u>(j) Section 31A-30-208;</u></p> <p><u>(k) Section 49-20-410;</u></p> <p><u>(4) The actions affecting Section 31A-3-304 (Effective 07/01/13) take effect on July 1, 2015.</u></p>	<p>Lines: 3788-3807</p> <p>The Bill will generally be effective on May 14, 2013, except that the amendments to the health provisions generally take effect on 1/1/14 and 31A-3-304 (line 1533), the increase to the captive account cap, takes effect on July 1, 2015.</p>